

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE VIOXX PRODUCTS LIABILITY LITIGATION

BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, D. LOWELL JENSEN, J. FREDERICK MOTZ,* ROBERT L. MILLER, JR., KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE PANEL

TRANSFER ORDER

Presently before the Panel are motions, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by the health care defendant in the Southern Texas action and plaintiffs in the remaining 47 actions listed on Schedule A to vacate the Panel's orders conditionally transferring the actions to the Eastern District of Louisiana for inclusion in the Section 1407 proceedings occurring there in this docket. Merck & Co., Inc., favors inclusion of these actions in MDL-1657 proceedings.

On the basis of the papers filed and hearing session held, the Panel finds that these actions involve common questions of fact with actions in this litigation previously transferred to the Eastern District of Louisiana. Transfer of the actions to that district for inclusion in the coordinated or consolidated pretrial proceedings occurring there will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Any pending motions to remand to state court can be presented to and decided by the transferee judge. *See, e.g., In re Ivy*, 901 F.2d 7 (2d Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001). The Panel further finds that transfer of these actions is appropriate for the reasons expressed in the original order directing centralization in this docket. In that order, the Panel held that the Eastern District of Louisiana was a proper Section 1407 forum for actions involving claims of liability for allegedly adverse effects arising from the ingestion of Vioxx. *See In re Vioxx Products Liability Litigation*, 360 F.Supp.2d 1352 (J.P.M.L. 2005).

To the North Carolina plaintiff who argues that he does not have the resources to litigate his claims in the Eastern District of Louisiana and to the health care defendant in the Southern Texas action who argues that it is not proper to split the Texas action into multiple pretrial proceedings, we emphasize that since Section 1407 transfer is for pretrial proceedings, there is usually no need for the parties and witnesses to travel to the transferee districts for depositions or otherwise. *See, e.g., Fed.R.Civ.P. 45(c)(3)(A)*. Furthermore, the judicious use of liaison counsel, lead counsel and steering

* Judge Motz took no part in the decision of this matter.

___ Fee _____
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committees will eliminate the need for most counsel ever to travel to the transferee districts. And it is logical to assume that prudent counsel will combine their forces and apportion their workload in order to streamline the efforts of the parties and witnesses, their counsel and the judiciary. This streamlining combined with uniform case management approaches instituted or anticipated in these multidistrict proceedings will foreseeably lead to an overall savings in transaction costs. See *In re Asbestos Products Liability Litigation (No. VI)*, 771 F.Supp. 415, 422 (J.P.M.L. 1991).

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these actions are transferred to the Eastern District of Louisiana and, with the consent of that court, assigned to the Honorable Eldon E. Fallon for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

IT FURTHER ORDERED that the claims against Pfizer Inc. (Pfizer) and the physician defendant in *Santos Villarreal Layton v. Dario Arango, M.D., et al.*, S.D. Texas, C.A. No. 7:05-149, relating to Pfizer's Celebrex prescription medication are separated and remanded, pursuant to 28 U.S.C. § 1407(a), to the Southern District of Texas.

FOR THE PANEL:



Wm. Terrell Hodges
Chairman

SCHEDULE A

MDL-1657 -- In re Vioxx Products Liability Litigation

Southern District of California

EDLA
SEC. L/3

<i>Alvin Williams v. Merck & Co., Inc., et al., C.A. No. 3:05-943</i>	05-5272
<i>Margaret Stein v. Merck & Co., Inc., et al., C.A. No. 3:05-944</i>	05-5273
<i>Otis Anderson v. Merck & Co., Inc., et al., C.A. No. 3:05-945</i>	05-5274
<i>Joan Ongley v. Merck & Co., Inc., et al., C.A. No. 3:05-947</i>	05-5275
<i>Hilda Armenta v. Merck & Co., Inc., et al., C.A. No. 3:05-948</i>	05-5276
<i>Robert Levesque v. Merck & Co., Inc., et al., C.A. No. 3:05-949</i>	05-5277
<i>Clancy Lucille Holloway v. Merck & Co., Inc., et al., C.A. No. 3:05-950</i>	05-5278
<i>Laura Martinez v. Merck & Co., Inc., et al., C.A. No. 3:05-951</i>	05-5279
<i>Clarice Forbes v. Merck & Co., Inc., et al., C.A. No. 3:05-953</i>	05-5280
<i>Robert Castro v. Merck & Co., Inc., et al., C.A. No. 3:05-954</i>	05-5281
<i>Joseph Capozzi v. Merck & Co., Inc., et al., C.A. No. 3:05-957</i>	05-5282
<i>Anna Lemmons v. Merck & Co., Inc., et al., C.A. No. 3:05-958</i>	05-5283
<i>Richard Brown v. Merck & Co., Inc., et al., C.A. No. 3:05-959</i>	05-5284
<i>Aida Hernandez v. Merck & Co., Inc., et al., C.A. No. 3:05-960</i>	05-5285
<i>Harvey Persh v. Merck & Co., Inc., et al., C.A. No. 3:05-961</i>	05-5286
<i>Robert Scott v. Merck & Co., Inc., et al., C.A. No. 3:05-962</i>	05-5287
<i>Violet Abramson v. Merck & Co., Inc., et al., C.A. No. 3:05-963</i>	05-5288
<i>Carmen Esquer v. Merck & Co., Inc., et al., C.A. No. 3:05-964</i>	05-5289

Southern District of Illinois

<i>Rosie-May Spann v. Merck & Co., Inc., et al., C.A. No. 3:05-315</i>	05-5290
<i>James Steele, Jr., et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-339</i>	05-5291
<i>Greg Miller, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-361</i>	05-5292
<i>Wilma Gaston, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-362</i>	05-5293
<i>John Allen, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-377</i>	05-5294

Western District of Kentucky

<i>William Andrew Curl, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-324</i>	05-5295
<i>Brenda Cox, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-332</i>	05-5296
<i>Patrick Wayne Overall, et al. v. Merck & Co., Inc., et al., C.A. No. 3:05-333</i>	05-5297
<i>James Goodman v. Merck & Co., Inc., et al., C.A. No. 3:05-334</i>	05-5298
<i>Steven Clark v. Merck & Co., Inc., et al., C.A. No. 3:05-335</i>	05-5299

Eastern District of Missouri

<i>Dorothy Ganser, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-557</i>	05-5300
<i>Letty Bess, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-568</i>	05-5301
<i>Arthur Mullins, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-569</i>	05-5302
<i>Dorothy Kassing, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-631</i>	05-5303
<i>Shirley Zook, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-632</i>	05-5304
<i>Andrew Kisty, et al. v. Merck & Co., Inc., et al., C.A. No. 4:05-665</i>	05-5305

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Eastern District of Missouri (Continued)

EDLA
SEC. L/3

<i>Virginia Kell, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-666	05-5306
<i>Mary Benson, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-668	05-5307
<i>Earlie Douglas, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-669	05-5308
<i>Ricardo Lara, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-671	05-5309
<i>Loretta Trinidad, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-673	05-5310
<i>David Moultrie, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-674	05-5311
<i>Irene Rogers, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-675	05-5312
<i>Charlotte Bohlke, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-837	05-5313

Middle District of North Carolina

<i>Jimmy Reid v. Merck & Co., Inc.</i> , C.A. No. 1:05-348	05-5314
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Eastern District of Texas

<i>Elfriede Blacketer v. Merck & Co., Inc., et al.</i> , C.A. No. 1:05-336	05-5315
<i>Walter Maddox v. Merck & Co., Inc., et al.</i> , C.A. No. 1:05-338	05-5316

Southern District of Texas

<i>Santos Villarreal Layton v. Dario Arango, M.D., et al.</i> , C.A. No. 7:05-149	05-5317
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Western District of Washington

<i>Robert K. Waitt v. Merck & Co., Inc., et al.</i> , C.A. No. 2:05-759	05-5318
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Northern District of West Virginia

<i>Shelia Dalgo v. Merck & Co., Inc.</i> , C.A. No. 5:05-48	05-5319
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Northern District of California

Judge J. Frederick Motz
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October 21, 2005

Loretta G. Whyte, Clerk
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Re: MDL-1657 -- In re Vioxx Products Liability Litigation

(See Attached Schedule A of Order)

Dear Ms. Whyte:

I am enclosing a certified copy and one additional copy of a transfer order filed today by the Panel in the above-captioned matter. The order is directed to you for filing.

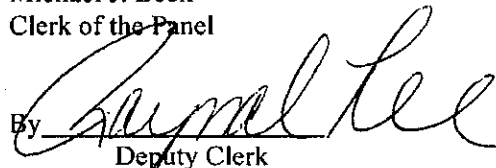
The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "...transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred."

The Panel has ordered that its Rule 1.6(a), pertaining to transfer of files, be suspended for purposes of this litigation. Accordingly, the transferee district clerk shall request, and the transferor district clerk shall forward, only those files deemed necessary by the transferee district court.

A list of involved counsel is attached.

Very truly,

Michael J. Beck
Clerk of the Panel

By 
Deputy Clerk

Enclosures/Attachment

cc: Transferee Judge: Judge Eldon E. Fallon
Transferor Judges: (See Attached List of Judges)
Transferor Clerks: (See Attached List of Clerks)

JPML Form 29A